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ARRANGEMENTS FOR THE FUNCTIONING OF THE PERMANENT SECRETARIAT

HEADQUARTERS AGREEMENT WITH THE GOVERNMENT OF GERMANY

Note by the secretariat

1. The agreement concerning the headquarters of the Convention secretariat was signed in Bonn on 18 August 1998, by the United Nations, the Government of the Federal Republic of Germany and the secretariat. An exchange of letters forming part of the agreement took place on the same day.

2. By its decision 4/COP.2 of 11 December 1998, the Conference of the Parties approved the agreement, subject to its ratification by the Federal Republic of Germany[1]. By the same decision the Executive Secretary was asked to report to the Conference of the Parties at its third session on this matter if necessary.

3. Article 6, paragraph 6, of the agreement provides that it "shall enter into force on the day follcwing the date of receipt of the last of the notifications by which the Parties will have informed each other of the completion of their respective formal requirements".

4. On 28 April 1999, the Federal Foreign Office of Germany informed the secretariat that the national requirements for the entry into force of the agreement had been fulfilled by the Federal Republic of Germany.

[1] According to the law of the Federal Republic of Germany, article 3, paragraph 3, article 4 and article 5 of the headquarters agreement require ratification by the Federal Republic of Germany.

5. In a note dated 4 May 1999, the Secretariat of the United Nations informed the Federal Foreign Office of Germany that the formal requirements under article 6, paragraph 6, of the agreement had been completed by the United Nations Secretariat.

6. On 9 July 1999, the Federal Foreign Office informed the secretariat that the above-mentioned note had been received by the German authorities on 7 July 1999. This being the last notification required, the agreement thus, pursuant to its article 6, paragraph 6, entered into force on 8 July 1999.

7. Annexed is the text of the agreement concerning the headquarters of the Convention secretariat signed in Bonn on 18 August 1998. The agreement refers to the agreement between the United Nations and the Federal Republic of Germany concerning the headquarters of the United Nations Volunteers Programme. This last agreement is not attached hereto, as it was made available to the Conference of the Parties at its second session (ICCD/COP(2)/8/Add.1).

Annex

Agreement

between

the Secretariat of the United Nations Convention
to Combat Desertification,

the Government of the Federal Republic of Germany

and

the United Nations,

concerning

the Headquarters of the
Convention Permanent Secretariat

The United Nations, the Government of the Federal Republic of Germany and the Secretariat of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD),

Whereas the first session of the Conference of the Parties to the UNCCD (CCD/COP) by its decision 5/COP.1 of 10 October 1997, decided to accept the offer of the Government of the Federal Republic of Germany to host the Secretariat of the United Nations Convention to Combat Desertification (CCD Secretariat);

Whereas in the offer of the Government of the Federal Republic of Germany, it agreed to apply the terms and conditions of the UNV Headquarters Agreement analogously to the Secretariats of the Framework Convention on Climate Change and the Convention to Combat Desertification;

Whereas the CCD/COP, in paragraphs 3 and 4 of decision 3/COP.1 of 10 October 1997, further decided to accept the offer of the Secretary-General of the United Nations on the institutional linkage between the CCD Secretariat and the United Nations;

Whereas the General Assembly, by its resolution 52/198 of 18 December 1997, endorsed the institutional linkage between the CCD Secretariat and the United Nations, as adopted by the CCD/COP in its decision 3/COP.1;

Whereas Article 4 paragraph 3 of the UNV Headquarters Agreement provides that it "may also be made applicable, mutatis mutandis, to other intergovernmental entities, institutionally linked to the United Nations, by agreement among such entities, the Government and the United Nations";

Whereas Article 4 paragraph 2 of the Agreement between the United Nations and the Government of the Federal Republic of Germany concerning the Occupancy and Use of the United Nations Premises in Bonn concluded on 13 February 1996, inter alia, provides that "(t)he United Nations shall make available appropriate space in the Premises to the secretariat of the United Nations Framework Convention on Climate Change ... as well as, subject to availability of space, to other intergovernmental entities institutionally linked to the United Nations";

Whereas the United Nations acknowledges that the offer of the Government of the Federal Republic of Germany to provide, inter alia, premises in Bonn to the CCD Secretariat, free of rent and on a permanent basis, has been accepted by the CCD/COP;

Whereas the CCD Secretariat and the Government of the Federal Republic of Germany intend to make appropriate arrangements specifying the particular elements contained in the latter's offer to host the CCD Secretariat;

Whereas the offer of the Government of the Federal Republic of Germany, as contained in documents A/AC.241/54/Add.2 and A/AC.241/63, inter alia, expresses the interest of the Government of the Federal Republic of Germany in concluding an agreement to host the CCD Secretariat that would ensure the availability of all the necessary facilities in the Federal Republic of Germany to enable the CCD Secretariat to perform its functions;

Whereas the CCD/COP, at its first session held at Rome, Italy in decision 5/COP.1 "encourages the Executive Secretary as a matter of urgency to negotiate a headquarters agreement in an appropriate manner with the Government of the Federal Republic of Germany in accordance with its offer, and upon such terms and conditions as are appropriate and necessary, in consultation with the Secretary-General, and to submit it to the Conference of the Parties for adoption at a subsequent session";

Whereas, in the same decision, the CCD/COP also stresses that with a view to enabling the CCD Secretariat to effectively discharge its functions under the UNCCD, such an agreement should, in particular, reflect the following:

(a) the CCD Secretariat should possess in the host country such legal capacity as is necessary for the effective discharge of its functions under the UNCCD, in particular to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings;

(b) the CCD Secretariat should enjoy in the territory of the host country such privileges and immunities as are necessary for the effective discharge of its functions under the UNCCD;

(c) the representatives of the Parties and Observer States (and regional economic integration organizations) to the UNCCD as well as the officials of the CCD Secretariat should similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions under the UNCCD;

Whereas the Secretariat's functions referred to in Article 23 of UNCCD are being carried out on an interim basis by the secretariat (referred to as "interim secretariat" in Article 1(e) in this agreement) established by the General Assembly of the United Nations in its Resolution 47/188 of 22 December 1992 and continued by virtue of Decision 4/COP.1 of 10 October 1997 and Resolution 52/198 of 18 December 1997 of the General Assembly of the United Nations;

Desiring to conclude an Agreement regulating matters arising from the applicability, mutatis mutandis, of the UNV Headquarters Agreement to the CCD Secretariat;

Have agreed as follows:

ARTICLE 1
DEFINITIONS

For the purpose of the present Agreement, the following definitions shall apply:

(a) "the UNV Headquarters Agreement" means the Agreement between the United Nations and the Federal Republic of Germany concerning the Headquarters of the United Nations Volunteers Programme concluded on 10 November 1995, and the Exchange of Notes of the same date between the Administrator of the United Nations Development Programme and the Permanent Representative of Germany to the United Nations concerning the interpretation of certain provisions of the Agreement (the Agreement and Exchange of Notes are appended in the Annex);

(b) "the UNCCD" means the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa adopted at Paris, France on 17 June 1994;

(c) "the CCD/COP" means the Conference of the Parties to the UNCCD, the supreme body of the Convention, under Article 22 thereof;

(d) "the CCD Secretariat" means the Permanent Secretariat established under Article 23 of the UNCCD;

(e) "the Executive Secretary" means the head of the CCD Secretariat appointed by the Secretary-General of the United Nations, after consultation with the Conference of the Parties through its Bureau (decision 4/COP.1, paragraph 4), or, until such appointment takes effect, the head of the interim secretariat;

(f) "Officials of the CCD Secretariat" means the Executive Secretary and all members of the staff of the CCD Secretariat, irrespective of nationality, with the exception of those who are locally recruited and assigned to hourly rates;

(g) "Headquarters" means the premises made available to, occupied and used by the CCD Secretariat in accordance with this Agreement or any other supplementary Agreement with the Government of the Federal Republic of Germany.

ARTICLE 2
PURPOSE AND SCOPE OF THE AGREEMENT

This Agreement shall regulate matters relating to or arising out of the applicability, mutatis mutandis, of the UNV Headquarters Agreement to the CCD Secretariat.

ARTICLE 3
APPLICATION OF THE UNV HEADQUARTERS AGREEMENTS

1. The UNV Headquarters Agreement shall be applicable, mutatis mutandis, to the CCD Secretariat in accordance with the provisions of the present Agreement.

2. Without prejudice to the provisions in paragraph 1 above, for the purposes of the present Agreement the references to:

(a) "the United Nations", in Article 1(m), in Article 4 paragraph 1, in Article 19 paragraph 2, in Article 23 and Article 26 paragraph 1(a), of the UNV Headquarters Agreement, shall be deemed to mean the CCD Secretariat or CCD/COP, as appropriate; and, with respect to Article 19 paragraph 3 of the same Agreement, shall be deemed to mean the United Nations and the CCD Secretariat;

(b) "the UNV", in Article 5 paragraph 2, and in Articles 7, 8, 9, 10, 11, 12, 14, 17, 21 and 26 of the UNV Headquarters Agreement, shall be deemed to mean the CCD Secretariat;

(c) "the Executive Coordinator", in Articles 8, 11, 14, 19 paragraph 3, and in Articles 20, 21 and 22 of the UNV Headquarters Agreement, shall be deemed to mean the Executive Secretary;

(d) "the representatives of Members", throughout the UNV Headquarters Agreement, shall be deemed to include the representatives of Parties and of Observer States (and regional economic integration organizations) to the UNCCD;

(e) "officials", "officials of the UNV" or "officials of the Programme", throughout the UNV Headquarters Agreement, shall be deemed to mean officials of the CCD Secretariat;

(f) "persons", in Articles 20 and 21 of the UNV Headquarters Agreement, shall be deemed to include all persons referred to in the present Agreement, including interns of the CCD Secretariat;

(g) "the Party" or "Parties", in Article 19 paragraph 3, and in Articles 24 and 26 paragraph 2, of the UNV Headquarters Agreement, shall be deemed to mean the Parties under the present Agreement;

(h) "the Headquarters district", throughout the UNV Headquarters Agreement, shall be deemed to mean the Headquarters of the CCD Secretariat.

3. Without prejudice to the provisions in Article 21 of the UNV Headquarters Agreement, arrangements shall also be made to ensure that visas, entry permits or licenses, where required for persons entering the host country on official business of the UNCCD, are delivered at the port of entry to the Federal Republic of Germany, to those persons who were unable to obtain them elsewhere prior to their arrival.

ARTICLE 4
LEGAL CAPACITY

1. The CCD Secretariat shall possess in the host country the legal capacity:

(a) to contract;

(b) to acquire and dispose of movable and immovable property;

(c) to institute legal proceedings.

2. For the purpose of this Article, the CCD Secretariat shall be represented by the Executive Secretary.

ARTICLE 5
IMMUNITY OF PERSONS ON OFFICIAL BUSINESS OF THE CONVENTION

Without prejudice to the pertinent provisions of the UNV Headquarters Agreement, all persons invited to participate in the official business of the UNCCD shall enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of their business. They shall also be accorded inviolability for all papers and documents.

ARTICLE 6
FINAL PROVISIONS

1. The provisions of this Agreement shall be complementary to the provisions of the UNV Headquarters Agreement. Insofar as any provision of this Agreement and any provision of the UNV Headquarters Agreement relate to the same subject matter, each of these provisions shall be applicable and neither shall narrow the effect of the other.

2. This Agreement may be amended by mutual consent at any time at the request of any Party to the present Agreement.

3. The present Agreement shall cease to be in force twelve months after any of the Parties gives notice in writing to the others of its decision to terminate the Agreement. This Agreement shall, however, remain in force for such an additional period as might be necessary for the orderly cessation of activities of the CCD Secretariat in the Federal Republic of Germany and the disposition of its property therein, and the resolution of any dispute between the Parties to the present Agreement.

4. (a) Any bilateral dispute between any two of the Parties concerning the interpretation or application of this Agreement or the regulations of the UNV which cannot be settled amicably shall be submitted, at the request of either Party to the dispute, to an arbitral tribunal, composed of three members. Each Party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairman. If one of the Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other Party to make such an appointment, the other Party may request the President of the International Court of Justice to make the necessary appointment. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either Party may invite the President of the International Court of Justice to make the necessary appointment.

(b) Any dispute amongst the three Parties concerning the interpretation or application of this Agreement or the regulations of the UNV which cannot be settled amicably shall be submitted, at the request of any Party to the dispute, to an arbitral tribunal, composed of five members. Each Party shall appoint one arbitrator and the three arbitrators thus appointed shall together appoint fourth and fifth arbitrators and the first three shall jointly designate either the fourth or the fifth arbitrator as Chairman of the arbitral tribunal. If any of the Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from another party to make such an appointment, such other Party may request the

President of the International Court of Justice to make any necessary appointments. If the three arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the fourth or fifth arbitrator or designation of the Chairman, any Party may invite the President of the International Court of Justice to make any necessary appointments or designation.

(c) The Parties shall draw up a special agreement determining the subject of the dispute. Failing the conclusion of such an agreement within a period of two months from the date on which arbitration was requested, the dispute may be brought before the arbitral tribunal upon the application of any Party. Unless the Parties decide otherwise, the arbitral tribunal shall determine its own procedure. The expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral tribunal shall reach its decision by a majority of votes on the basis of the applicable rules of international law. In the absence of such rules, it shall decide ex aequo et bono. The decision shall be final and binding on the Parties to the dispute, even if rendered in default of one or two of the Parties to the dispute.

5. The provisions of this Agreement shall be applied provisionally as from the date of signature, as appropriate, pending the fulfilment of the formal requirements for its entry into force referred to in paragraph 6 below.

6. This Agreement shall enter into force on the day following the date of receipt of the last of the notifications by which the Parties will have informed each other of the completion of their respective formal requirements.

Done in Bonn, on 18 August 1998, in triplicate, in the German and the English languages, both texts being equally authentic.

sgd. Hama Arba Diallo
For the Secretariat of the
United Nations Convention to Combat Desertification

sgd. Hans-Friedrich von Ploetz
sgd. Wighard Härdtl
For the Government of the
Federal Republic of Germany

sgd. S. Capeling-Alakija
For the United Nations

Letter from H.E. Mr. Hans-Friedrich von Ploetz, State Secretary
of the Federal Foreign Office, Bonn
to Mr. Hama Arba Diallo, Executive Secretary of the
Convention to Combat Desertification, Geneva

Bonn, 18 August 1998

Mr. Executive Secretary,

I have the honour to refer, on the occasion of the signing of the Agreement between the Government of the Federal Republic of Germany, the United Nations and the Secretariat of the United Nations Convention to Combat Desertification concerning the headquarters of the Convention Permanent Secretariat (hereinafter referred to as "the Agreement"), to the discussions held between the representatives of the Government of the Federal Republic of Germany, the representatives of the United Nations, and the representatives of the Secretariat of the United Nations Convention to Combat Desertification concerning Paragraph 3 of Article 3 of the Agreement and to confirm the following understanding:

"With regard to paragraph 3 of Article 3 of the Agreement, it is understood by the Contracting Parties that in order to enter Germany, the persons mentioned shall, in principle, have to comply, where applicable, with the regular procedure to obtain visas from the German diplomatic missions abroad in accordance with Article 21 of the UNV Headquarters Agreement. This should also be made clear in the letters of invitation distributed by the Secretariat. Reference is made to the fact that in those countries that do not have a German diplomatic mission, the German honorary consuls may be contacted.

In the few instances in which due to unexpected circumstances arising at short notice (e.g. a travel mission to Germany at short notice) it is not possible to obtain a visa abroad, the Secretariat of the UN Convention to Combat Desertification may, in good time, contact the Situation Center of the Border Police Directorate (Grenzschutzdirektion), Postfach 1644, 56016 Koblenz, phone no. 0261-3990, fax no. 0261-399472 or 399475, in order to ensure that an emergency visa is issued at the port of entry. In this case the following information must be provided no later than two hours prior to the person's arrival: surname, first name, nationality, date and place of birth, type and number of travel document, as well as, generally, the point of border crossing, mode of transport, and arrival time. The Situation Center of the Border Police Directorate can be reached 24 hours a day. In the exceptional cases referred to above, the person in question shall carry the letter of invitation from the Secretariat of the UN Convention to Combat Desertification so as to facilitate border formalities.

This exchange of Notes shall be part of the Agreement."

If the United Nations and the Secretariat of the United Nations Convention to Combat Desertification agree to the understanding referred to above, this Note and your affirmative replies in writing shall constitute an Agreement between the Federal Republic of Germany, the United Nations and the Secretariat of the United Nations Convention to Combat Desertification regarding the above-referenced understanding which shall enter into force in accordance with Article 6 of the Agreement.

Please accept, Mr. Executive Secretary, the assurance of my highest consideration.

sgd. Hans-Friedrich von Ploetz

Letter from Mr. Hama Arba Diallo, Executive Secretary of the
Convention to Combat Desertification, Geneva
to H.E. Mr. Hans-Friedrich von Ploetz, State Secretary
of the Federal Foreign Office, Bonn

18 August 1998

Excellency,

I have the honour to acknowledge receipt of your letter of today's date, in which you confirm the understanding concerning the interpretation of paragraph 3 of Article 3 of the Agreement between the United Nations, the Federal Republic of Germany and the secretariat of the United Nations Convention to Combat Desertification which reads as follows:

"I have the honour to refer, on the occasion of the signing of the Agreement between the Government of the Federal Republic of Germany, the United Nations and the Secretariat of the United Nations Convention to Combat Desertification concerning the headquarters of the Convention Permanent Secretariat (hereinafter referred to as "the Agreement"), to the discussions held between the representatives of the Government of the Federal Republic of Germany, the representatives of the United Nations, and the representatives of the Secretariat of the United Nations Convention to Combat Desertification concerning Paragraph 3 of Article 3 of the Agreement and to confirm the following understanding:

"With regard to paragraph 3 of Article 3 of the Agreement, it is understood by the Contracting Parties that in order to enter Germany, the persons mentioned shall, in principle, have to comply, where applicable, with the regular procedure to obtain visas from the German diplomatic missions abroad in accordance with Article 21 of the UNV Headquarters Agreement. This should also be made clear in the letters of invitation distributed by the Secretariat. Reference is made to the fact that in those countries that do not have a German diplomatic mission, the German honorary consuls may be contacted.

In the few instances in which due to unexpected circumstances arising at short notice (e.g. a travel mission to Germany at short notice) it is not possible to obtain a visa abroad, the Secretariat of the UN Convention to Combat Desertification may, in good time, contact the Situation Center of the Border Police Directorate (Grenzschutzdirektion), Postfach 1644, 56016 Koblenz, phone no. 0261-3990, fax no. 0261-399472 or 399475, in order to ensure that an emergency visa is issued at the port of entry. In this case the following information must be provided no later than two hours prior to the person's arrival: surname, first name, nationality, date and place of birth, type and number of travel document, as well as, generally, the point of border crossing, mode of transport, and arrival time. The Situation Center of the Border Police Directorate can be reached 24 hours a day. In the exceptional cases referred to above, the person in question shall carry the letter of invitation

from the Secretariat of the UN Convention to Combat Desertification so as to facilitate border formalities.

This exchange of Notes shall be part of the Agreement."

In accordance with your request, I wish to confirm, on behalf of the secretariat of the UN Convention to Combat Desertification, that the understanding set out in your Note is acceptable to the secretariat, and that this exchange of Notes shall constitute part of the Agreement regarding the above-referenced understanding which shall enter into force in accordance with the Article 6 of the Agreement.

Please accept, Excellency, the assurances of my highest consideration.

sgd. Hama Arba Diallo
Executive Secretary

Letter from H.E. Mr. Hans-Friedrich von Ploetz, State Secretary
of the Federal Foreign Office, Bonn
to H.E. Mr. Kofi Anan, Secretary-General of the
United Nations, New York

Bonn, 18 August 1998

Mr. Secretary General,

I have the honour to refer, on the occasion of the signing of the Agreement between the Government of the Federal Republic of Germany, the United Nations and the Secretariat of the United Nations Convention to Combat Desertification concerning the headquarters of the Convention Permanent Secretariat (hereinafter referred to as "the Agreement"), to the discussions held between the representatives of the Government of the Federal Republic of Germany, the representatives of the United Nations, and the representatives of the Secretariat of the United Nations Convention to Combat Desertification concerning Paragraph 3 of Article 3 of the Agreement and to confirm the following understanding:

"With regard to Paragraph 3 of Article 3 of the Agreement, it is understood by the Contracting Parties that in order to enter Germany, the persons mentioned shall, in principle, have to comply, where applicable, with the regular procedure to obtain visas from the German diplomatic missions abroad in accordance with Article 21 of the UNV Headquarters Agreement. This should also be made clear in the letters of invitation distributed by the Secretariat. Reference is made to the fact that in those countries that do not have a German diplomatic mission, the German honorary consuls may be contacted.

In the few instances in which due to unexpected circumstances arising at short notice (e.g. a travel mission to Germany at short notice) it is not possible to obtain a visa abroad, the Secretariat of the UN Convention to Combat Desertification may, in good time, contact the Situation Center of the Border Police Directorate (Grenzschutzdirektion), Postfach 1644, 56016 Koblenz, phone no. 0261-3990, fax no. 0261-399472 or 399475, in order to ensure that an emergency visa is issued at the port of entry. In this case the following information must be provided no later than two hours prior to the person's arrival: surname, first name, nationality, date and place of birth, type and number of travel document, as well as, generally, the point of border crossing, mode of transport, and arrival time. The Situation Center of the Border Police Directorate can be reached 24 hours a day. In the exceptional cases referred to above, the person in question shall carry the letter of invitation from the Secretariat of the UN Convention to Combat Desertification so as to facilitate border formalities.

This exchange of Notes shall be part of the Agreement."

If the United Nations and the Secretariat of the United Nations Convention to Combat Desertification agree to the understanding referred to above, this Note and your affirmative replies in writing shall constitute an Agreement between the Federal Republic of Germany, the United Nations and the Secretariat of the United Nations Convention to Combat Desertification regarding the above-referenced understanding which shall enter into force in accordance with Article 6 of the Agreement.

Please accept, Mr. Secretary General, the assurance of my highest consideration.

sgd. Hans-Friedrich von Ploetz

Letter from Ms. Sharon Capeling-Alakija, Executive Coordinator
of the United Nations Volunteers, Bonn
to H.E. Mr. Hans-Friedrich von Ploetz, State Secretary
of the Federal Foreign Office, Bonn

18 August 1998

Excellency,

I have the honour to acknowledge receipt of your letter of today's date in which you confirm the understanding concerning the interpretation of paragraph 3 of Article 3 of the Agreement among the United Nations, the Government of the Federal Republic of Germany and the Secretariat of the United Nations Convention to Combat Desertification concerning the Headquarters of the Convention Permanent Secretariat (hereinafter "the Agreement").

In accordance with your request, I wish to confirm on behalf of the United Nations, that the understanding set out in your letter is acceptable to the United Nations and shall constitute part of the Agreement.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

sgd. Sharon Capeling-Alakija
Executive Coordinator
United Nations Volunteers